

**REGULAR MEETING
of the
CITY OF RIALTO
CITY COUNCIL**

**City of Rialto, acting as Successor Agency to the Redevelopment
Agency
RIALTO HOUSING AUTHORITY**

**MINUTES
March 10, 2015**

A regular meeting of the City Council of the City of Rialto was held in the City Council Chambers located at 150 South Palm Avenue, Rialto, California 92376, on Tuesday, March 10, 2015.

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This meeting was called by the presiding officer of the Rialto City Council in accordance with the provisions of **Government Code §54956** of the State of California.

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CALL TO ORDER

Mayor Pro Tem Baca Jr. called the meeting to order at 5:02 p.m.

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The roll was called and the following were present: Mayor Pro Tem Joe Baca Jr., Council Members Ed Scott, Ed Palmer and Shawn O'Connell. Also present were City Administrator Michael Story, City Attorney Fred Galante and City Clerk Barbara McGee. Mayor Deborah Robertson was absent

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CLOSED SESSION

1. Conference with Legal Counsel - Existing Litigation: The City Council will discuss the following pending litigation (s) pursuant to Government Code Section 54956.9(d)(1):
 - (a) San Bernardino County Flood Control Dist. V. State of California ex rel Dept. of Transportation, SANBAG, City of Rialto and related cross complaint S.D. Superior Court Case No. 37-2009-00082535-CU

CLOSED SESSION

- (b) City of Rialto v. Chevron USA, Inc. and related cross action S.B. Superior Court Case No. CIVDS1406197
- (c) San Bernardino Valley Municipal Water District v. San Gabriel Valley Water d.b.a. Fontana Water Company, et al S.B. Superior Court Case No. CIVDS1311085

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Motion by Council Member Palmer, second by Council Member Scott and carried by unanimous vote to go into Closed Session at 5:03 p.m. and returned at 5:37 p.m.

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CALL TO ORDER

Mayor Pro Tem Baca Jr. called the meeting to order at 6:03 p.m.

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The roll was called and the following were present: Mayor Pro Tem Joe Baca Jr., Council Members Ed Palmer, Ed Scott, and Shawn O'Connell. Also present were City Administrator Michael Story, City Clerk Barbara McGee and City Attorney Fred Galante. Mayor Deborah Robertson was absent.

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Pledge of Allegiance and Invocation

Mayor Pro Tem Joe Baca Jr. led the pledge of allegiance and Council Member Scott gave the Invocation.

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City Attorney's Report on Closed Session

City Attorney Galante stated that City Council met in Closed Session and discussed all the items listed under Closed Session on the Agenda.

- 1a. Conference with legal counsel regarding existing litigation. San Bernardino County Flood Control District v. State of California, Caltrans, SANBAG, City of Rialto and related cross complaints. Motion by Council Member Palmer, second by Council Member Scott, and carried by a 4-0 vote, Mayor Robertson was absent, to approve a draft settlement agreement which would dispose of the entire case with key points highlighted. The County Flood Control District would construct improvements to the Cactus Basins comprising of Cactus Basins 3, 3A and Basin 4 Dam Project. The project will be constructed in a phased manner with Basin 3 and 3A as Phase I and Basin 4 Dam being Phase II and pursuant to a schedule attached to the draft settlement agreement, the defendants in the case: Rialto, SANBAG and Caltrans will each contribute to the settlement of the case with Rialto and SANBAG paying \$5.5 million and Caltrans \$5 million for a total of \$16 million to settle all claims. They payment schedule would be made in accordance with a schedule attached to the settlement agreement where each payment is split up in four payments of \$4 million.

City Attorney's Report on Closed Session

An additional component would be that the Cactus basins and the Cactus channel would be transferred to the ownership of the County Flood Control District. The County Flood Control District would take full responsibility and a liability for the channel and basins by October 1, 2018. Finally, that all parties would release all claims and rights against the others as part of the full global settlement. The final settlement agreement will come to City Council for ratification.

Item 1b the City of Rialto v. Chevron USA. City Council received an update. No reportable action was taken.

Item 1c San Bernardino Valley Municipal Water District v. San Gabriel Valley Water. City Council received an update and no reportable action was taken.

Items 2a and 2b were pulled. There was no need to have a discussion on those items.

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PRESENTATIONS
PROCLAMATIONS

Rick Smith, Vice President – Veolia/Rialto Water Services, Lisa Winfrey, Customer Service Manager - Rialto Water Services, Clarence Mansell General Manager – Veolia Water Rialto presented the open House Event and Poster Contest.

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George Harris, Administrative and Community Services Director presented an overview of the Rialto Jazz Festival.

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Council Member Palmer stated that it was mentioned they hadn't received any complaints yet over the phone but they all received an anonymous letter from a concerned citizen. Mr. Harris did address the foot traffic and noise complaint. If this event came before City Council it would not have been at Frisbie Park. Logistically it's not a great place to have it because it's surrounded by homes. Because it's a private event not associated with the City it got there and he hopes it's a success. Rialto needs the culture. He hopes they can make this a City Event and take a year to plan it and put it on a bigger venue to make money for schools. He has concerns on where it's at and what is going to happen on it. How many tickets have been sold so far?

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George Harris, Administrative and Community Services Director stated that 500 people have pledged to buy tickets. They are currently just over 100 tickets. They are still 45 days out. The bulk of the sales will be 4 weeks leading in. Event sponsorships are coming in, currently at \$11,000.

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Council Member Palmer asked what kind of break even point are they going to have to be at to put the event on?

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PRESENTATIONS
PROCLAMATIONS

George Harris, Administrative and Community Services Director stated the budget is set for 3000 – 3500 tickets sold. He will be out selling tickets at their basketball program and a couple of other events. They hired a team to really get the ticket sales in.

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Council Member Palmer stated that he hopes it goes off because they need the culture in Rialto and the beneficiaries really need the money. He still has concerns about the location and ticket prices. People have asked him about the event because they think City Council is putting this on.

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Council Member O'Connell stated that two weeks ago the City Treasurer approached them with concerns on how this event was being put on. He contacted the police and fire and there were some questions. They have done a good job answering the questions that were brought up at that meeting. There was a question about insurance.

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George Harris, Administrative and Community Services Director stated that they have the necessary insurance.

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Council Member O'Connell stated that he appreciates them lowering the ticket cost because they mentioned that. He asked for this presentation because citizens were asking him about it and he had no idea what was going on. It's been asked if its city related and the answer is no. When they look at the documents, they use the City seal and it clearly says the Mayor and City Council numerous times. City phone numbers and emails are given. He thinks this a great cause but as somebody who is representative of the City he has to look at it from the standpoint of the information, to make sure they have insurance and it seems to be coming in line. He does have some concerns reference the use of their names. In the future, before it gets advertised he would like to see it be brought in front of City Council. Especially if it's going to say an event by the Mayor and City Council. He also noticed that if it's not a City event, and with significant markdowns and they are floating a loan to the tune of \$10,000. He assumes they will get paid back after the fact or before.

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Mr. Harris stated likelihood of the bulk of the resources being received before the day of the event is high. He should be able to make that payment before the event. If it's tight then he will request of the City Administrator that it be done after the fact. It will be based on the pace of the revenues as they arrive.

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PRESENTATIONS
PROCLAMATIONS

Council Member O'Connell stated that there is a significant markdown to get to the \$10,000. He noticed they are using City employees, can they have a breakdown of what the employees are being used for. This is not the first time the employees are being used for private events. As they go forward, if they are going to use the employees when they should be working for the citizens. This is not just a reflection on just this event but there have been numerous times where they are being used and he would like some documentation that they are being used appropriately since it's a gift of public funds. He wishes them the best of luck, the schools deserve it. He knows the Mayor put this on twice at a local restaurant and now it's blown into something bigger. Hopefully, they can see it be a success. He appreciates they did go and walk the neighborhood.

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Council Member Scott stated this is a good event. There could have been more communication with City Council. But it's for a good cause and he does think as a City they need to move forward and show that they are more than just a community that is known as a bedroom community to everybody around them. Cultural events are excellent. He commended Mr. Harris for working on this project. He has not received any negative comments from the community. Maybe it's because he lives in the south end of the City. The comments he has received have been positive. He knows a lot of people are looking forward to going to the event. A number of customers who go to his business plan to buy tickets. He hopes it's successful and hopes they sell 4000 tickets. He suggests they get out and start selling tickets.

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Mayor Pro Tem Baca Jr. stated that they really need to work on in Rialto is having something people can turn to and say that is really good for Rialto and this is an opportunity. There are a lot of youth that will benefit from this. It's being hosted by the Rialto Youth Collaborative. Just in regards to City seals, one of the things sometimes they can't control what outside people do. For example back in September-October there were political debates that went on. And many people in these debates included the City seal. The question is, do they go after them? What is their policy in dealing with people that put city seals in regards to political debates? The other thing, any time they have an event hosted. For example, they have several events such as RunWhatchaBrung and they provide city staff in-kind for a lot of those types of events. They don't charge a lot of the non-profits. So the question is do they start looking at their policy on how they look at all events not just one particular event so it's even across the board. If they are expecting people to pay for a certain service. They do this for every single event. It may be a policy they have to look at. He is looking forward to a positive event. His neighborhood was canvassed and he got the flyer at his front door. He hasn't got any complaints only the anonymous letter like everyone else did on the dais.

PRESENTATIONS
PROCLAMATIONS

Mayor Pro Tem Baca Jr. stated if they need to restructure in the future, then so be it. They have to put something out there at some point in time. They can't say they are not going to do something and then go forward. He is looking forward to seeing Sheila E.

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Fire Chief Mat Fratus presented a success story of saving Starbucks on north Riverside on February 27th.

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City Administrator Mike Story introduced new Public Works Director/City Engineer Robert Eisenbeisz.

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ORAL COMMUNICATIONS

June Hayes, P.O. Box 2395, expressed her complaint about the City's IT when she tried to view the City Council Meeting on her laptop.

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Diana McKee, Executive Director of Transforming Lives Charter School, expressed their interest to come to Rialto and provide their resources.

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CONSENT CALENDAR

A. WAIVE FULL READING OF ORDINANCES

1. Waive reading in full, all ordinances considered at this meeting.

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B. APPROVAL OF WARRANT RESOLUTIONS

B.1 Resolution No. 32 (02/27/15)

B.2 Resolution No. 33 (03/06/15)

B.3 Resolution No. 33A(03/06/15)

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C. APPROVAL OF MINUTES

C.1 Regular City Council Meeting - February 24, 2015

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D. SET PUBLIC HEARINGS

D.1 Request City Council to Set a Public Hearing for March 24, 2015, to Consider Adopting an Ordinance Amending Chapter 5.20 of the Rialto Municipal Code Imposing Strict Liability on Property Owners or Persons in Control of Property who Violate Fireworks Possession or Discharge Restrictions.

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CONSENT CALENDAR

E. MISCELLANEOUS

E.1 Request City Council to Adopt Resolution No. 6702 Approving Parcel Map 19472 for a Two (2) Parcel Subdivision Located on the East Side of Pepper Avenue and the North Side of Foothill Boulevard and a Subdivision Improvement Agreement.

E.2 Request City Council to Authorize the Release of Request for Proposals No. 15-055 for "On-Call" Inspection Services Associated with Private Land Development Projects.

E.3 Request City Council to Approve the Contract Documents and Authorize the Release of Request for Bids No. 15-059 for the Pool Deck Resurfacing Project, City Project No. 150202.

E.4 Request City Council to Accept the Community Center Rehabilitation Phase 3 Project, City Project No. CB1301 , Authorize the Filing of a Notice of Completion, and Release of Final Retention Payment to Avi-Con, inc.

E.5 Request City Council to Approve a Purchase Order with KMBS in the amount of \$41,057 to upgrade the OnBase Enterprise Content Management System.

E.6 Request City Council to Cancel the Construction Contract to Pavement Recycling Systems, Inc., a California corporation, in the amount of \$37,815.14 for removal of the runway markings at the Rialto Municipal Airport. Inc.

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Item E.1

Mayor Pro Tem Baca Jr. asked about sub-dividing this parcel. Do they have a tenant in mind at this point?

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Robb Steel, Development Services Director stated they wanted to separate the parcels so they can mark it.

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Mayor Pro Tem Baca Jr. stated regarding the piece of land on Pepper Ave. and Foothill, hopefully they can get a tenant there to continue to move in the direction with economic development.

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Motion by Council Member O'Connell, second by Council Member Palmer and carried by a 4-0 vote to approve the Consent Calendar as presented. Mayor Robertson was absent.

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TAB 1 – Santa Ana River Watershed Integrated Regional Water Management Plan

Robb Steel, Development Services Director introduced Bob Tincher, Manager of Water Resources from the San Bernardino Valley Municipal Water District who presented the staff report regarding the 2015 Upper Santa Ana River Watershed Integrated Regional Water Management Plan.

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Motion by Council Member Palmer, second by Council Member Scott and carried by a 4-0 vote to close the public hearing. Mayor Robertson was absent.

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Motion by Council Member Palmer, second by Council Member Scott and carried by a 4-0 vote to adopt Resolution No. 6703 Authorizing the Adoption of the 2015 Upper Santa Ana River Watershed Integrated Regional Water Management Plan. Mayor Robertson was absent.

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TAB 2 - Conditional Development Permit Nos. 712 and 720 for West Colton Rail Terminal, LLC (WCRT) and Kinder Morgan Energy Partners, L.P.

Robb Steel, Development Services Director presented the staff report continued from February 24th City Council Meeting regarding (1) Adoption of Resolution No. 6692 Approving a Mitigated Negative Declaration (Environmental Assessment No. 12-23); (2) Approving Conditional Development Permit Nos. 712 and 720 for West Colton Rail Terminal, LLC (WCRT) and Kinder Morgan Energy Partners, L.P. (KMEP); and (3) introduce Ordinance No. 1557 “An Ordinance of the City Council of the City Of Rialto, California, Granting to West Colton Rail Terminal LLC, the Nonexclusive Right, Privilege, Authority, and Franchise to Lay and Use Pipelines and Appurtenances for Transmitting and Distributing Ethanol for any and all Lawful Purposes under and along the Public Streets, Ways, Alleys and Places, as the Same Now or May Hereafter Exist, within Said City”.

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Mayor Pro Tem Baca Jr. asked if it would be appropriate to for the next meeting or April 14th for enough time.

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Robb Steel, Development Services Director stated that April 14th would be better.

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Mayor Pro Tem Baca Jr. asked if anyone in the audience wanted to speak on the item.

No one came forward.

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TAB 2 - Conditional Development Permit Nos. 712 and 720 for West Colton Rail Terminal, LLC (WCRT) and Kinder Morgan Energy Partners, L.P.

Council Member O'Connell stated that they were supposed to get an update regarding a meeting with Fire and Police.

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Motion by Council Member Palmer, second by Council Member Scott and carried by a 4-0 vote to continue the public hearing until the April 14th City Council Meeting. Mayor Robertson was absent.

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TAB 3 – 2013/2014 Audit Results

George Harris, Administrative and Community Services Director and Representative from White Nelson Diehl Evans, LLP presented the staff report regarding Fiscal Year 2013/2014 Audit Results and Receive and File the Fiscal Year 2013/14 Annual Financial Statements and Related Documents and to Approve the Establishment of Fund 821 Other Post-Employment Benefits (OPEB) Trust Fund.

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Motion by Council Member Palmer, second by Council Member O'Connell and carried by unanimous vote to Accept Fiscal Year 2013/2014 Audit Results and Receive and File the Fiscal Year 2013/14 Annual Financial Statements and Related Documents and to Approve the Establishment of Fund 821 Other Post-Employment Benefits (OPEB) Trust Fund.

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TAB 4 – Land Sales Proceeds from the Sale of the Airport Property

Robb Steel, Development Services Director presented the staff report regarding the adoption of Resolution No. 6704 to Budget Anticipated Land Sales Proceeds in the amount of \$ 14,510,568 from the Sale of Airport Property and to Budget Contracted Distributions in the amount of \$4,153,664 for Fiscal Year 2014/15.

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Council Member Scott asked what Fund does the money go into?

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George Harris, Administrative and Community Services Director stated that it's unrestricted General Fund money and then appropriated by City Council.

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Council Member Scott asked if it will come back before City Council on what to do with the money? He doesn't want to see the money fall into another bottomless pit where it gets spent on strange needs.

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City Administrator Story stated at the last meeting they identified the \$9.6 million from the excess reserve. They will come back the same way with recommendations.

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TAB 4 – Land Sales Proceeds from the Sale of the Airport Property

Council Member Palmer asked if they investing the money right now to get a little more return.

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George Harris, Administrative and Community Services Director stated yes, the money was received last Thursday by wire. He believes the City Treasurer is aware of the receipt of the funds and will make sure it's properly invested.

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Mayor Pro Tem Baca Jr. stated that there is an opportunity here with the 2 projects coming into the Airport to reinvest back into the Community. To come before City council and reinvest back to the residents.

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Motion by Council Member Palmer, second by Council Member Scott and carried by a 4-0 vote to Adopt **Resolution No. 6704** to Budget Anticipated Land Sales Proceeds in the amount of \$ 14,510,568 from the Sale of Airport Property and to Budget Contracted Distributions in the amount of \$4,153,664 for Fiscal Year 2014/15. Mayor Robertson was absent.

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TAB 5 – Construction and Credit agreement related to Niagara Project

Robb Steel, Development Services Director presented the staff report regarding Construction and Credit Agreement related to the Niagara Project.

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Motion by Council Member Palmer, second by Council Member Scott and carried by a 4-0 vote to (1) Adopt Resolution No. 6705 Approving Construction and Credit Agreement by and between the City of Rialto and Lewis-Hillwood Rialto Company, LLC and (2) Adopt Budget Resolution No. 6706 Appropriating Funding for the Construction and Credit Agreement related to the Niagara Project. Mayor Robertson was absent.

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TAB 6 – Construction and Credit agreement related to Medline Project

Robb Steel, Development Services Director presented the staff report regarding Construction and Credit Agreement related to the Medline Project.

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Motion by Council Member Palmer, second by Scott and carried by a 4-0 vote to approve a (1) Adopt Resolution No. 6707 Approving Construction and Credit Agreement by and between the City of Rialto and Lewis-Hillwood Rialto Company, LLC and (2) Adopt Budget Resolution No. 6708 Appropriating Funding for the Construction and Credit Agreement related to the Medline Project. Mayor Robertson was absent.

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TAB 7 – Refunding of 2005 Series A, B, and C Tax Allocation Bonds

George Harris, Administrative and Community Services Director presented the staff report regarding refunding of the 2005 Series A, B and C Tax Allocation Bonds.

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Council Member O'Connell congratulated Mr. Harris for putting stuff back out to generate additional money for the City.

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Motion by Council Member Palmer, second by Council Member O'Connell and carried by a 4-0 vote to Adopt Resolution No. SA5-15 to pursue a refunding of the 2005 Series A, B and C Tax Allocation Bonds, approving professionals and certain actions related thereto. Mayor Robertson was absent.

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TAB 8 – Removal of Three underground Storage Tanks

Suzanne Wilcox, Public Works Department presented the staff report regarding the Removal of Three Underground Storage Tanks at the Rialto Municipal Airport.

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Motion by Council Member Palmer, Council Member Scott and carried by a 4-0 vote to Award a Construction Contract to Tafoya & Associates, a California Corporation, in the amount of \$ 59,951 for Removal of Three Underground Storage Tanks at the Rialto Municipal Airport. Mayor Robertson was absent.

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REPORTS

City Council gave their reports.

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ADJOURNMENT

Motion by Council Member Scott, second by Council Member Palmer and carried by 4-0 vote to adjourn the City Council meeting at 8:03 p.m. Mayor Robertson was absent

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